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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/428,490	10/28/1999	HIDEKI INA	684.2925	4729

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EXAMINER

NATIVIDAD, PHILIP SANA

ART UNIT

PAPER NUMBER

2877

DATE MAILED: 07/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/428,490

Applicant(s)

INA ET AL.

Examiner

Phil Natividad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 October 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \*   c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5,6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Drawings***

1. Figure 1B should be designated by a legend such as --Prior Art-- because only that which is old is illustrated (specification p. 8 line 20, p.4 lines 3-5). See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 and 11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Biegen (US 4,869,593). Biegen discloses light source (10), incoherence means (18), optical dividing system (43), image pickup means (58)(56), and image adjusting means. As to claim 2, note element (18). As to claim 3, note element (30).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Biegen. Biegen discloses applicant's invention as applied to independent claim 1 above, without expressly disclosing a target mark. However, such a mark "having a surface level difference" on

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the test surface is notoriously well known for alignment or positioning, of which Official notice is taken, especially since Biegen already expressly discloses a motivation of providing a topographic profile of the surface.

Prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Schmucker et al. (US 6,185,315B1), Yamashita et al. (US 5,783,342).

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Biegen. Biegen discloses applicant's invention as applied to independent claim 1 above, without expressly disclosing a plurality of light sources providing different wavelengths. However, it is known to use multiple wavelengths (Biegen col. 10 line 49, Deck '234 col. 1 lines 52-64), and it would have been obvious to one of ordinary skill in the art to use multiple sources for such multiple wavelengths, for the motivation of reducing ambiguities.

7. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Biegen in view of Yamashita et al. (US 5,783,342). Biegen discloses applicant's position detecting, but does not expressly disclose a combination with exposure/manufacturing. However, it is notoriously well known in semiconductor exposure/photolithography apparatuses to combine an exposure means with a position detecting/alignment means, for a motivation of higher resolution exposures.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Deck (US 6,028,670), Deck (US 5,402,234).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner can be directed to Phil Natividad whose telephone number is 703-306-5944. The examiner can normally be reached on Tuesday through Friday and alternating Mondays; and supervising

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patent examiner Frank G. Font can be reached at 703-308-4881.

In view of delays in mail delivery in recent days, we at the USPTO would like to encourage you to communicate with the USPTO via facsimile. Facsimile transmissions may be used for correspondence as set forth in 37 CFR 1.6 such as: amendments, petitions for extension of time, authorization to charge a deposit account, an IDS, terminal disclaimers, a notice of appeal, an appeal brief, CPAs under 37 CFR 1.53(d), and RCEs.

PTO Form 2038 should be used when authorizing payment by credit card; this form is maintained separate from the file to ensure confidentiality.

The USPTO has recently installed server software that enables us to automatically receive facsimile transmissions and route them to the appropriate groups. No special equipment is needed by our customers to use this system other than a regular facsimile machine. Each Technology Center has its own facsimile numbers associated with our server for Official replies to non-final Office actions and for Official replies to final Office actions. In addition, each Technology Center has a Customer Service Center on our server system, and can answer any general application status questions you might have, can provide Examiner information, and answer paper queries.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 or 703-308-7722 for regular communications and

703-872-9319 or 703-308-7722 for After Final communications.

Tech Center 2800 Customer Service is at 703-306-3329 or 703-872-9317. Any inquiry of a general nature or relating to the status of this application or proceeding can also be directed to the receptionist whose telephone number is 703-308-0956.

Phil Natividad  
Patent Examiner  
psn  
July 10, 2002

  
FRANK G. FONT  
for SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800